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3                   RECORD OF ORAL HEARING  
4                   UNITED STATES PATENT AND TRADEMARK OFFICE

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5  
6                   BEFORE THE BOARD OF PATENT APPEALS  
7                   AND INTERFERENCES

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10                  Ex parte JOHN KELLER SR.

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13                   Appeal 2009-001587  
14                   Application 10/691,480  
15                   Technology Center 1700

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18                  Oral Hearing Held: April 23, 2009

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22       Before CHUNG K. PAK, TERRY J. OWENS, and  
23       BEVERLY A. FRANKLIN, Administrative Patent Judges

24  
25       ON BEHALF OF THE APPELLANT:

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1 MR. WASYLYNA: Wasylyna, yes.

2 JUDGE PAK: I notice that you brought your colleague.

3 MR. WASYLYNA: My client.

4 JUDGE PAK: Your client to the hearing, so you may introduce him  
5 before you start.

6 MR. WASYLYNA: Thank you.

7 JUDGE PAK: And when you do start, you realize you have 20  
8 minutes to argue your case.

9 MR. WASYLYNA: Yes.

10 JUDGE PAK: So you could focus on the relevant issues.

11 MR. WASYLYNA: Absolutely.

12 JUDGE PAK: And so you may start anytime you wish.

13 MR. WASYLYNA: All right, thank you.

14 Well, first I want to introduce John Keeler, Sr. He is the president of  
15 John Keeler and Company, Inc., assignee of this application, came out from  
16 Miami to join us here today.

17 Okay, well, since I do have a limited amount of time, I want to focus  
18 right on the issue. Our -- we essentially came out today simply to hammer  
19 in the point that none of the prior art references cited by the Examiner  
20 disclose controlling the amount of air in a package, controlling the amount  
21 of air in a package, let alone achieving a 13- to 20-percentage ratio of meat  
22 to -- of air to meat.

23 We have eight references, in total, being asserted against us. There  
24 are four different rejections being made with various combinations of those  
25 eight references. But of those eight references, three of them are completely

1    silent as to the quantity of air in the package. These three references are the  
2    Peterson reference, the Ueyama reference, and the Walker reference.

3            I'll quickly just address the Peterson reference as being relevant to the  
4    extent that it actually discloses crabmeat package in a pouch. That's the  
5    extent of its relevance. Again, there are three of these eight references that  
6    are completely silent as to the quantity of air in the container. The --

7            JUDGE PAK: Which three references are you mentioning?

8            MR. WASYLYNA: Excuse me?

9            JUDGE PAK: Which three references?

10          MR. WASYLYNA: The Peterson reference, the Ueyama reference,  
11    and the Walker reference.

12          JUDGE PAK: What do they disclose?

13          MR. WASYLYNA: The Peterson reference discloses packaging  
14    crabmeat in a pouch. The Ueyama reference discloses a film essentially.  
15    There's not much disclosure beyond a heat-shrinkable, multilayered film for  
16    packaging crabs, not necessarily any particular meat. The bulk of the  
17    disclosure of Ueyama is directed to the actual chemistry behind the package.  
18    Again, Ueyama is completely silent as to how to package anything using this  
19    disclosed film, and more importantly, it's completely silent as to the air in  
20    the package if you were to use that package for packaging crabs which it  
21    does mention.

22          The Walker reference is another reference that is again absolutely  
23    silent as to the amount of air in the package. But I will also note the Walker  
24    reference is, is directed to chemical -- a chemically-treated process for  
25    packaging crabmeat. They -- the crabmeat is removed from the crab and is  
26    treated with various chemical agents, chlorides and organic acids, that sort of

1 thing. It's then pasteurized and sealed. Interestingly, Walker is also sealed  
2 in an open package. It's pasteurized and then sealed after it's been  
3 pasteurized with an open package. So there's a lot of points that are -- a lot  
4 of reasons Walker isn't very relevant to this case, but what I really want to  
5 hammer out here is that Walker is absolutely silent as to the quantity of air,  
6 because I really want to emphasize that we are controlling the amount of air  
7 in a package. So those three references that I just discussed, Peterson,  
8 Ueyama and Walker, have no disclosure whatsoever as to the quantity of air  
9 in the package.

10 So I'll, I'll also mention three other -- essentially what we're left now  
11 is five references that, that somehow mention air in their packages. Three of  
12 these references, the Doerter reference, the Air Liquide reference, and the  
13 Lett reference disclose -- they mention air in the package. What we take  
14 away -- what I want you to take away from this is that Doerter, Air Liquide,  
15 and Lett disclose removing all of the air from the package, so it's our  
16 position that Doerter, Air Liquide, and Lett actually teach away from what  
17 we're doing. We again are controlling the amount of air. We have an upper  
18 and a lower limit to our range. We have an optimized quantity of air, an air-  
19 to-crabmeat ratio, and Doerter, Air Liquide, and Lett disclose removing all  
20 of the air from the package. The way Doerter does this is using a  
21 carrageenan gel mixture. It's a liquid that gels once cooled. They fill the  
22 package with the product. They displace all the air in the package with a gel  
23 mixture, and then they seal it leaving no air whatsoever in the package. This  
24 again teaches away from what we're doing, optimizing. We, we want air in  
25 our package.

1           The Lett reference is very similar. The Lett reference discloses  
2     introducing a brine to the package and then vacuum-packing. The brine  
3     again similar to Doerter, Lett and Doerter are almost cumulative in a sense  
4     in that they both disclose displacing the air from the package and then  
5     sealing the package with no air in the package whatsoever.

6           The Air Liquide reference is another reference in this category that I, I  
7     group as no air whatsoever in the package. The Air Liquide reference  
8     essentially is directed to a modified atmosphere package. It's, it's a tray.  
9     You put fresh fish fillets in the tray. You put a film over it, similar to  
10    something you would see in a grocery store that would package fresh fish.  
11    It's, it's many reasons why Air Liquide is, is arguably not even in the  
12    ballpark here. But again, what I want you to take away from, from Air  
13    Liquide is the first step of Air Liquide is removing all the air and then  
14    introducing a modified atmosphere.

15          So I have three references, Doerter, Air Liquide and Lett, in the  
16    category of removing all air from the package. Again, these three references  
17    teach away from what we're trying to do. We are controlling the air. We  
18    want air in our package. We want an optimized range, 13 to 20 percent by  
19    volume air-to-crabmeat ratio.

20          JUDGE PAK: If those references in attempting to remove air but  
21    cannot remove substantial amount of air corresponding to what you are  
22    claiming, would it meet -- would those teaching meet your claim  
23    requirement?

24          MR. WASYLYNA: Well, absolutely not. They, they don't -- those  
25    references specifically instruct the reader to remove the air from the  
26    package. But I think what you're getting at is -- gets to my last category,

1 what I would call as the minimizing air in the package references. Now of  
2 these eight references asserted against us, the last two in the third category  
3 I'm referring to today as the minimizing air category. They don't necessarily  
4 teach displacing air with a fluid. However, they disclose minimizing, using  
5 a vacuum-sealing process to minimize the air in the package.

6 The first reference in this category is Byrd. Byrd and Sugisawa are  
7 the two references in this category. Byrd is directed to packaging shellfish  
8 in a tin can, and I want to direct you to the relevant language in Byrd,  
9 column 2, lines 44 through 48. I just want to read this -- the only relevant  
10 portion of Byrd. The containers or cans so packed are vacuumized by any  
11 known method if possible but if not are packed more tightly in order to  
12 reduce to a minimum undesirable air space between the particles of the  
13 crabmeat.

14 They -- the -- what somebody skilled in the art would glean from Byrd  
15 is that the point of the process, the vacuum process, is to remove as much air  
16 as possible. Air is bad according to Byrd.

17 JUDGE OWENS: What about the teaching at column 3, line 5, "The  
18 heating is preferably done by immersing the packet vacuumized or  
19 nonvacuumized."?

20 MR. WASYLYNA: Oh. I'm familiar with that section as well. That  
21 refers back to the section that I just read, and in this section, I guess I  
22 emphasized the word "vacuumizing," but column 2, lines 44 through 48,  
23 they also specify a nonvacuum process where again I'm reading the  
24 quotation. "Are packed more tightly in order to reduce to a minimum," so  
25 the nonvacuum process is simply packing very tightly again to minimize the  
26 amount of air in the package. This in our -- it's our position that this

1 reference, this teaching, goes against what we're trying to do. Not only does  
2 it not teach controlling the amount of air, the key word "controlling," it goes  
3 against controlling by teaching minimizing the amount of air in the package.

4 From Byrd I go to Sugisawa. Sugisawa is very similar to, to Byrd in  
5 that it also teaches minimizing the amount of air in a package. Sugisawa --  
6 there -- I'm focusing on this issue of, of controlling. There are a lot of  
7 distinctions that could be made about Sugisawa and, and all the other  
8 references. Sugisawa is directed to fish, and it's a sterilized product. But  
9 when Sugisawa discusses the air in the package, I'm going to read another  
10 quote from column 3, lines 6 through 8. "It is preferred that the broiled fish  
11 be packaged in the container under vacuum."

12 Another quote from column 3, lines 9 through 12. This -- not --  
13 column 3, lines 9 through 12, probably the, the real -- the forceful portions  
14 of Sugisawa, the portion relied on by the Examiner. "It is particularly  
15 preferable to conduct vacuum packing so that the air content is 25 percent or  
16 less, preferable 15 percent or less."

17 Sugisawa, like Byrd, is teaching removing air, minimizing air. As any  
18 good patent attorney, Sugisawa's patent attorney didn't want to be limited to  
19 an absolute vacuum. Just like any good patent attorney, Sugisawa's patent  
20 attorney realized that an absolute vacuum is almost -- well, I don't want to  
21 use the word impossible, but it's, it's a very difficult thing. It's very  
22 unrealistic in the food business. Sugisawa, like any good patent attorney,  
23 simply threw in 25 or less, preferably 15 or less, and what anybody skilled in  
24 the art would glean from that is we're, we're minimizing. Take air out. Air  
25 is a bad thing. Certainly there's --

26 JUDGE OWENS: How do you know that?



1 MR. WASYLYNA: -- no disclosure to, to have a control volume of  
2 air, an upper and a lower limit.

3 JUDGE OWENS: How do you know why the patent attorney put it  
4 in?

5 MR. WASYLYNA: Forgive me for speculating. That's, that's  
6 speculating. I'm a patent attorney, and I know how patent attorneys write  
7 patent applications. You're very careful not to be limited to something. If, if  
8 you use the word vacuumizing, we don't want to be in litigation some day  
9 and, and held to -- for some reason to an absolute vacuum because of  
10 something we said --

11 JUDGE PAK: Counsel, the inventor signed the oath, right, claiming  
12 that's their invention when they filed the patent application just like yours.  
13 You know, obviously you have written it, but you would not have submitted  
14 it unless it was signed under oath by your own client.

15 MR. WASYLYNA: Absolutely our, our patent application, we have  
16 an appropriate declaration filed.

17 JUDGE PAK: So did inventor say? It's their invention, am I correct,  
18 under oath?

19 MR. WASYLYNA: I'm not following your question.

20 JUDGE PAK: Whatever is described in the patent application or  
21 patent for that matter, in all cases, the patentee or the applicant claims  
22 whatever is disclosed in that document as their own invention.

23 MR. WASYLYNA: Well, I would disagree with that. If you're  
24 referring to our application, what we're claiming -- we have a detailed  
25 description of our invention, but what we're claiming as our invention is  
26 what's defined by the claims. We're not claiming everything that's disclosed

1 in the application. We have a specific invention, and we're claiming a  
2 method for packaging crabmeat and a packaged crabmeat product. There's  
3 no question about that.

4 JUDGE OWENS: Well, assuming that this means what it says, would  
5 it have suggested to one skilled in the art that the sterilization would be  
6 improved if you remove all the air or if you remove only part of it? Perhaps  
7 it would be improved more if you removed all the air, but would this have  
8 indicated that it would have been improved to some extent if you removed  
9 part of the air?

10 MR. WASYLYNA: I don't disagree with you there. I think that  
11 Sugisawa simply teaches minimizing the amount of air in the package.

12 JUDGE OWENS: Well, let's say it teaches that 15 to 25 percent is  
13 okay. That gives you improved sterilization. Would that have indicated to  
14 one skilled in the art that it would give you improved pasteurization?

15 MR. WASYLYNA: We have no reason to believe that, and I would  
16 also have to disagree with you there. I -- Sugisawa does not teach 15 to 25  
17 percent. Sugisawa is teaching that it's preferable to conduct vacuum  
18 packing, and to further specify what they mean by vacuum packing, they're  
19 saying 25 or less, preferably 15 or less. To, to read a range of 15 to 25 there  
20 is, is misreading what Sugisawa is teaching.

21 JUDGE OWENS: Well, in a -- regardless, it gives you an upper limit  
22 in the 15 to 25 percent range, and the question is would one skilled in the art  
23 have considered that to be applicable to pasteurization for improving the  
24 pasteurization?

25 MR. WASYLYNA: That's -- I think that's an interesting question.  
26 Again, Sugisawa is -- they, they teach that the, the vacuum in the package

1 improves the sterilization process. Our claimed range has many advantages.  
2 Aerobic -- it permits aerobic bacterial growth so that you have spoilage that's  
3 detectable. It, it reduces anaerobic bacterial growth. It also is a range that's  
4 selected to avoid bloating of the package. We have a specific type of  
5 package here that we're claiming. We're claiming a flexible pouch, and this  
6 flexible pouch when it's filled with, with the crabmeat and the air, we don't  
7 want bloating. We don't want damage resulting from bloating when it's in,  
8 in a pasteurizer.

9 So whether this, whether this Sugisawa vacuumizing below 25 would  
10 also help the pasteurization process, there is a problem there. There -- he's  
11 again teaching a -- to minimize the amount of air is what somebody would  
12 take away from -- which I think is actually a pretty fair reading of the  
13 express language of Sugisawa, and the purpose of this is to remove as much  
14 air as possible so that you improve the sterilization process. We're not  
15 sterilizing.

16 We have advantages that go to a specific range, 13 to 20 percent air-  
17 to-crabmeat ratio. Another thing Sugisawa that doesn't discuss is, is an air-  
18 to-crabmeat ratio. Again, it's, it's directed to minimizing the air in the  
19 package to improve sterilization. They, they threw in these ranges that  
20 anybody would read as just simply trying not to be limited to an absolute  
21 vacuum and, and I use the words "Sugisawa's patent attorney." I certainly  
22 don't know what Sugisawa's patent attorney was thinking, but I do know  
23 patent attorneys, and we're always very concerned about being held to a very  
24 strict definition of a term.

25 JUDGE OWENS: Do you consider a crab to be a fish?

1 MR. WASYLYNA: Absolutely not. In fact, that's an interesting  
2 point that you've raised. There are very different microbial issues when  
3 you're dealing with, with shellfish as opposed to fish fillets, for example.

4 JUDGE OWENS: Well, if it's a shellfish, your claim doesn't exclude  
5 the crabmeat being broiled. Could it be suggested by Sugisawa's disclosure  
6 of broiled fish as a broiled shellfish?

7 MR. WASYLYNA: I would say no. A fish and crabmeat are two  
8 different things. Sugisawa is limited to fish, fish fillets. I think they use the  
9 word eviscerated fish fillets in the disclosure. It's very clear that there's no  
10 disclosure whatsoever of crab -- shellfish for that matter.

11 JUDGE OWENS: The complication is, the crab is called a shellfish.

12 MR. WASYLYNA: Well, it's a shellfish. I mean shellfish and fish,  
13 they have the same word, doesn't necessarily mean that shellfish is a fish.

14 I certainly don't want to get tied up on that. I, I think that what needs  
15 to be taken away from Sugisawa is that it teaches minimizing air. It teaches,  
16 it teaches away from what we're doing. We're -- there's no suggestion in  
17 Sugisawa whatsoever that a quantity of air is beneficial in the package.

18 JUDGE OWENS: Does it have to indicate that to have rendered your  
19 claimed invention prima facie obvious?

20 MR. WASYLYNA: I would say yes. I -- our -- the argument that I'm  
21 making here today that I want to really hammer in is there is no prima facie  
22 case of obviousness, because none of these references, none of these eight  
23 references disclose having -- the advantage of having air in the package.  
24 They teach -- three of them are silent to that, to that issue. Three of them  
25 teach removing all air, and two of them teach removing air and advantages  
26 associated with minimizing the amount of air. Not one of these references

1 teaches an advantage to controlling an amount of air which, which  
2 essentially means there is a volume of air that we want. The volume of air  
3 we're looking for is a beneficial volume of air.

4 JUDGE OWENS: Do they have to teach that it's beneficial in order to  
5 render your claimed invention prima facie obvious, or can they just disclose  
6 it?

7 MR. WASYLYNA: Well, they could, they could -- they need to  
8 teach it. We're, we're looking at an obviousness situation here, and our point  
9 is that nobody appreciates until now, until, until we came along, the  
10 advantages of putting a controlled volume of air in a flexible pouch filled  
11 with crabmeat that's pasteurized. There are, there are -- I could -- I, I didn't  
12 want to focus on some of these other issues, but there are big distinctions  
13 between sterilization and pasteurization as well. Pasteurization is a much  
14 different process. There are still microbes potentially there. Pasteurization  
15 does not kill everything. A pasteurized product has to be refrigerated. A  
16 sterilized product you can leave sitting on a shelf.

17 You see sterilized fish products. Tuna is a classic example. You'll  
18 have in a flexible pouch tuna that has been sterilized, vacuum packed, and it  
19 sits on a shelf. It needs no refrigeration. So that's another very big  
20 distinction here.

21 JUDGE OWENS: Why would reducing air improve sterilization but  
22 not pasteurization?

23 MR. WASYLYNA: When you reduce the air in a sterilized product --  
24 air is an insulator. Sterilization is a heat-treatment process. You want heat  
25 from the ambient surroundings, the -- whatever device you're using to do the  
26 sterilization, you want it to penetrate the meat as quickly as possible. Air is

1 one of the best insulators we have short of a vacuum. When you have air in  
2 a sterilized package, you increase the time it takes to sterilize.

3 That's -- another thing that somebody would take away from  
4 Sugisawa, when they talk about 15 or less, preferably 25 or less, preferably  
5 15 or less, what, what people take from that is I understand thermodynamics.  
6 Sugisawa is saying we're sterilizing this thing. Get rid of that air, because  
7 the air is going to insulate that meat inside the package and, and make the  
8 process that much less efficient when you're trying to introduce heat from,  
9 from the sterilization unit into the meat that's inside this package.

10 JUDGE OWENS: Would it have that same effect in pasteurization?

11 MR. WASYLYNA: Air?

12 JUDGE OWENS: Yeah.

13 MR. WASYLYNA: Well, certainly there's a, there's a problem to air,  
14 and in fact, I think that almost goes to -- it's an additional nonobviousness  
15 argument. People -- the thought has always been to remove air, because air  
16 is an insulator. Whenever you're doing a heat treatment process, you want to  
17 get the air out so that you could improve the heat transfer from the  
18 surroundings into the package. The heat has to transfer through the package  
19 and container, whatever that container is, and ultimately into the meat.  
20 When you have air, it slows down the process, increases the time it takes to  
21 process, and therefore I think you raise another good point of  
22 nonobviousness is that those skilled in the art are inclined to remove as  
23 much air as possible to, to improve the heat treatment process. We're  
24 going --

25 JUDGE PAK: All right, did you make --

26 MR. WASYLYNA: -- away from that --

1 JUDGE PAK: -- counsel, did you make those arguments in your  
2 brief?

3 MR. WASYLYNA: Absolutely. I think, I think our -- the issues are  
4 very well briefed in our appeal brief as well as in the reply brief.

5 JUDGE PAK: I'm talking about the, the condition useful for  
6 sterilization will not be useful for pasteurization in question. Did you make  
7 that is the Sugisawa's --

8 MR. WASYLYNA: I, I never made that argument.

9 JUDGE PAK: -- sterilization condition --

10 MR. WASYLYNA: I'm sorry.

11 JUDGE PAK: Did you make that specific argument in your brief?

12 MR. WASYLYNA: I didn't make that argument before, and I'm not  
13 making that argument now. I think you're confusing what I've said. The  
14 general understanding in the art is remove as much air as possible, because it  
15 helps heat treatment. We're not saying that, that you would get better heat  
16 treatment processes if you, if you vacuum -- reduce air to a minimum. If  
17 you're, if you're pasteurizing or sterilizing, lower air, a lower quantity of air  
18 is going to be more efficient. It's going to improve heat transfer into the  
19 product.

20 So I, I want to set the record very clear that I -- we're not making  
21 that -- I never argued that the one -- it works for one or not the other. What  
22 we are arguing is that what we're doing goes against the general  
23 understanding of those skilled in the art.

24 JUDGE OWENS: It seems like Sugisawa then is going against it too  
25 by saying you can have 25 percent or less air.

1 MR. WASYLYNA: Well, I, I wouldn't say that. I think again  
2 Sugisawa just simply -- they use the word preferably. They're, they're  
3 lowering. They're teaching minimizing there. You can't look at Sugisawa as  
4 a range of 15 to 25. What somebody reading Sugisawa would say we want  
5 to improve sterilization so vacuumize. They use the word vacuumize,  
6 removing air. Vacuumizing is very different than controlling the amount of  
7 air in the package. We want a quantity of air in the package.

8 JUDGE OWENS: So you're saying he's not disclosing controlling the  
9 25 percent or less?

10 MR. WASYLYNA: Sugisawa's patent attorney -- whoever drafted  
11 Sugisawa did not want to be limited to an absolute vacuum.

12 JUDGE OWENS: You're speculating again.

13 MR. WASYLYNA: Again, I'm speculating. I, I agree with you, but  
14 I, I think that's what somebody reading Sugisawa -- it's pretty clear that they  
15 teach vacuumizing, and then they also go on and say well, what do we mean  
16 by that? Presumably not wanting to be limited to an absolute vacuum, very  
17 common in the patent arts to, to provide actual numeric, something more  
18 quantitative.

19 JUDGE OWENS: If that is wrong, and Sugisawa actually is a  
20 disclosure of an air range of zero to 25 percent, and a crab is a fish, what  
21 does Sugisawa lack that you're claiming?

22 MR. WASYLYNA: It lacks controlling, the step of controlling to a --  
23 having a minimum of, of 13 percent to a maximum of 20. Sugisawa teaches  
24 zero to -- 25 to zero, and more preferable 15 to zero. We have a specific  
25 range, because what I want to make very clear here today is we want some



1 air in the package, ambient air in the package, to provide this -- the, the  
2 biological effect that we're getting.

3 JUDGE OWENS: Isn't that suggested by or wouldn't that have been  
4 suggested by the Air Liquide, Air Liquide --

5 MR. WASYLYNA: Air Liquide --

6 JUDGE OWENS: -- reference, that they want the, the oxygen to  
7 prevent the development of anaerobic flora?

8 MR. WASYLYNA: Air Liquide is using carbon dioxide. It's using a  
9 modified gas atmosphere. Carbon dioxide has certain effects, and oxygen  
10 has certain -- there's -- anaerobic bacteria are bacteria that, that don't thrive  
11 in an oxygen environment. Air Liquide simply replaces air. I think the, the  
12 best thing to take from Air Liquide is that it removes all air and replaces it  
13 with a modified atmosphere, not air.

14 JUDGE OWENS: Doesn't it teach that the oxygen in the modified  
15 atmosphere is what prevents the growth of the anaerobic flora?

16 MR. WASYLYNA: It does teach that. That's right. And it also  
17 teaches that the carbon dioxide which are -- these are products that are  
18 purchased, on the market and used in the packages, a modified atmosphere.  
19 We're using ambient air. We have a simple process as -- this is fully  
20 described in the application, and it's in the briefs. We're using ambient air.  
21 Our claims -- we, we limited our claims to ambient air as another advantage,  
22 for example, over Air Liquide.

23 I also should point out, I know I'm limited on time, but Air Liquide is  
24 a completely different process. Air Liquide is, is not sterilized. It's not  
25 pasteurized. It is fresh fish in a tray, packaged with a, with a film, and the

1 air is completely removed and replaced with a purchased gaseous  
2 atmosphere.

3 JUDGE PAK: Counsel, one question. When you say control, what  
4 does that mean?

5 MR. WASYLYNA: Control, it's, it's an affirmative step of ensuring  
6 that you have 13 to 20 percent by volume air-to-crabmeat ratio in that  
7 package.

8 JUDGE PAK: So you, you put in let's say 10 percent ambient air.

9 MR. WASYLYNA: Do you put it in intentionally?

10 JUDGE PAK: Does it make difference whether it has to be --

11 MR. WASYLYNA: It does. You have to control it.

12 JUDGE PAK: -- intentionally included or is included anyway? If it's  
13 in the pouch, you have a 15 percent air. Whether you put it in intentionally  
14 or you insert it in, 15 percent for whatever the reason, does it matter? You  
15 still have the 15 percent ambient air.

16 MR. WASYLYNA: Yeah. You've, you've controlled. If -- what,  
17 what controlling means that we're not adding any, any special meaning to  
18 the word "control" here. We're simply saying you have a package. You've  
19 put meat into that package, and now you are controlling the air in that  
20 package amongst the meat to achieve a specific ratio of air to meat within  
21 that package. Once that air -- that ratio is, is achieved, something in that  
22 range, we seal the package, fixing the air-to-meat ratio in that package, and  
23 then we send it to a pasteurization, pasteurization not sterilization, a  
24 pasteurization process to complete the, to complete the process.

25 JUDGE PAK: Any question? Any question?

26 (No response)

1 JUDGE PAK: Thank you for coming.

2 MR. WASYLYNA: Thank you for listening.

3 Whereupon, the hearing concluded on at 1:30 p.m. on

4 April 23, 2009.